

# Exhibit 310

*United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.*  
*v. Dey, Inc., et al.*, Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid in Support  
of Dey's Opposition to Plaintiffs' Motion for Partial Summary Judgment**

CAUSE NO. GV002327

THE STATE OF TEXAS ) IN THE DISTRICT COURT  
 ex rel. )  
 VEN-A-CARE OF THE )  
 FLORIDA KEYS, INC. )  
 )  
 Plaintiffs, )  
 )  
 VS. ) TRAVIS COUNTY, TEXAS  
 )  
 DEY, INC.; ROXANE )  
 LABORATORIES, INC. and )  
 WARRICK PHARMACEUTICALS )  
 CORPORATION, )  
 )  
 Defendants. ) 53rd JUDICIAL DISTRICT

ORAL AND VIDEOTAPED DEPOSITION OF  
 PAM MARRS  
 May 2, 2002

ORAL AND VIDEOTAPED DEPOSITION OF  
 PAM MARRS, produced as a witness at the instance of  
 the State of Texas and duly sworn, was taken in the  
 above-styled and numbered cause on the 2nd of May,  
 2002, from 9:16 a.m. to 5:00 p.m., before  
 Debra L. Sletsma, CSR in and for the State of Texas,  
 reported by machine shorthand, at Coudert Brothers,  
 600 Beach Street, San Francisco, California, pursuant  
 to the Texas Rules of Civil Procedure and the  
 provisions as previously set forth.

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##### ALSO PRESENT:

Mr. Richard Rienstra, Videographer  
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1 Q. What is a wholesaler?

2 A. A wholesaler is an organization we sell to  
3 who serves our -- services our contract customers.

4 Q. Okay. And what's a contract customer?

5 A. A contract customer is an organization that  
6 we independently, from the wholesaler, would negotiate  
7 a price and terms with.

8 Q. Okay.

9 A. But they -- they don't buy the product from  
10 us. They buy it from the wholesalers. The wholesaler  
11 basically services our contract.

12 Q. Okay. When the wholesaler purchases this box  
13 of 3 mL 25 Albuterol sulfate, how do you record or  
14 book the revenue for that?

15 A. Well, when they actually purchase it and its  
16 shipped out, an invoice is created and the sale is  
17 booked at the invoice price. At the end of the month  
18 we go through and try and come up with some  
19 big-picture estimate as to what the ultimate  
20 chargeback may be that will come through on that; but  
21 you don't really know until you eventually, down the  
22 road, receive information back from the wholesaler  
23 what that amount will be. So it's -- it's a very  
24 difficult area in the accounting world. It's the area  
25 our auditors have the most difficulty with, quite

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1 frankly, because it's -- there are a lot of variables.  
2 It's almost impossible to estimate, so we just kind of  
3 have to do our best job at it.

4 Q. Okay. As an accrual-basis taxpayer and under  
5 general accepted accounting principles, you need to  
6 estimate that chargeback, correct?

7 A. Well, you say "taxpayer." For generally  
8 accepted accounting principles for our books, we have  
9 to try and come up with an estimate. For tax purposes  
10 we can't deduct the chargeback reserve because it's  
11 dependent upon an outcome, a future outcome. So as  
12 hard as I've tried, our -- our tax people will not let  
13 us deduct it.

14 Q. Okay. Explain to me what a chargeback is.

15 A. A chargeback is a transaction that's  
16 generated back to us by the wholesaler when they sell  
17 out one of our products to one of our contract  
18 customers, if you will. And it basically -- we  
19 receive -- I think last year we received almost  
20 two million of these transactions being processed back  
21 to us, and it basically tells us who they sold the  
22 product to, which contract, which Dey contract they  
23 sold it out under, and it's -- it's a calculation of  
24 what we need to reimburse them for in order to make  
25 them whole for servicing our contract. So it would

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1 basically be the difference between the invoice price  
2 the wholesaler paid and the contract price that the  
3 wholesaler eventually sells it out to the Dey contract  
4 customer.

5 Q. Okay. Let's go back to this original date of  
6 invoice and shipping.

7 You indicated that you record or book  
8 a -- a sale at that point in time, correct?

9 A. Correct.

10 Q. Okay. Where is that recorded, and how is it  
11 recorded?

12 A. Well, the -- the day the shipment is made,  
13 it's -- it's recorded as a transaction in our computer  
14 system.

15 Q. Okay. Let me stop you there.

16 What -- what computer system do you  
17 have?

18 A. We use BPCS.

19 Q. Can you spell that for me?

20 A. BPCS. It's a fairly standard manufacturing  
21 software package. The -- sold by SSA. Well, SSA --  
22 it's now -- the name has changed. I don't recall the  
23 new name. But it's a commonly used package in the  
24 pharmaceutical and manufacturing industries.

25 Q. Okay. Can you tell me a little bit about

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1 what hardware this is run on?

2 A. It's run on an AS 400.

3 Q. Okay. Who manufactures that?

4 A. IBM.

5 Q. Okay. All right. And, again, the people  
6 responsible for running this computer and the software  
7 on the computer report to you; is that correct?

8 A. Correct.

9 Q. Okay. All right. This program that -- the  
10 software, the BPCS software, do you know what  
11 it stands for? Is it an acronym that everybody knows?

12 A. Business Planning and Control System,  
13 something like that.

14 Q. Okay. All right. Can you tell me what  
15 functions this software will do for you?

16 A. It's -- it's an integrated system that  
17 includes purchasing, accounts payable, MRP-type  
18 functions, order entry, distribution, general ledger.  
19 It does not have payroll, fixed assets, chargebacks on  
20 it. It -- it's -- those are separate systems, but  
21 it's basically the core system that we use in the  
22 company for most transactions.

23 Q. Would it be safe to say that you maintain a  
24 database of all your sales in this one program?

25 A. Well, the transactions are -- there is a